

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emma Stydahr	Team: Squad #13	CCRB Case #: 202007642	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 11/02/2020 11:20 AM	Location of Incident: 84th Street between Northern Boulevard and 32nd Avenue	Precinct: 115	18 Mo. SOL 5/2/2022	EO SOL 5/4/2022	
Date/Time CV Reported Mon, 11/02/2020 2:05 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 11/19/2020 10:59 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Juan Navarro	17807	964678	115 PCT
2. DTS Cesar Arceo	03929	934414	115 PCT
3. PO Ryan Oleary	20738	963185	115 DET
4. SGT John Rajan	01569	898342	115 PCT
5. PO Kurt Liebe	02733	960808	WARRSEC
6. PO Gabriel Abreu	09959	965917	115 PCT
7. An officer			
8. Officers			115 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Joseph Delligatti	13106	963482	115 PCT
2. POM Fouger Rene	19584	962722	115 PCT
3. POM Michael Robbins	23892	963234	115 PCT
4. POM Jesse Rosales	01865	962066	115 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT John Rajan	Abuse: Sergeant John Rajan stopped the vehicle in which § 87(2)(b) was an occupant.	
B.SGT John Rajan	Force: Sergeant John Rajan pointed his gun at § 87(2)(b)	
C.PO Juan Navarro	Force: Police Officer Juan Navarro pointed his gun at § 87(2)(b)	
D.PO Gabriel Abreu	Force: Police Officer Gabriel Abreu pointed his gun at § 87(2)(b)	
E. An officer	Force: An officer pointed his gun at § 87(2)(b)	
F.SGT John Rajan	Discourtesy: Sergeant John Rajan acted discourteously toward § 87(2)(b)	
G.SGT John Rajan	Abuse: Sergeant John Rajan damaged § 87(2)(b) property.	
H.SGT John Rajan	Discourtesy: Sergeant John Rajan spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
I.PO Ryan Oleary	Abuse: Police Officer Ryan Oleary frisked § 87(2)(b)	
J.PO Kurt Liebe	Abuse: Police Officer Kurt Liebe frisked § 87(2)(b)	
K.SGT John Rajan	Abuse: Sergeant John Rajan frisked § 87(2)(b)	
L. Officers	Abuse: Officers stopped § 87(2)(b)	
M. Officers	Force: Officers pointed their guns at § 87(2)(b)	
N.PO Juan Navarro	Abuse: Police Officer Juan Navarro frisked § 87(2)(b)	
O.PO Kurt Liebe	Abuse: Police Officer Kurt Liebe frisked § 87(2)(b)	
P.PO Juan Navarro	Abuse: Police Officer Juan Navarro searched § 87(2)(b)	
Q.DTS Cesar Arceo	Abuse: Detective Cesar Arceo searched the vehicle in which § 87(2)(b) was an occupant.	
R.PO Ryan Oleary	Abuse: Police Officer Ryan Oleary searched the vehicle in which § 87(2)(b) was an occupant.	
S.PO Kurt Liebe	Abuse: Police Officer Kurt Liebe searched the vehicle in which § 87(2)(b) was an occupant.	
T.PO Gabriel Abreu	Abuse: Police Officer Gabriel Abreu searched the vehicle in which § 87(2)(b) was an occupant.	
U.SGT John Rajan	Abuse: Sergeant John Rajan searched the vehicle in which § 87(2)(b) was an occupant.	

### Case Summary

On November 2, 2020, § 87(2)(b) called IAB and filed this complaint as a reporting non-witness on behalf of his father, § 87(2)(b). § 87(2)(b) was subsequently identified as another victim in this case. It was received by the CCRB on November 19, 2020.

On November 2, 2020, at approximately 11:20am, on 84th Street between Northern Boulevard and 32nd Avenue in Queens, § 87(2)(b) vehicle was stopped by Sergeant John Rajan, Police Officer Ryan O'Leary, Police Officer Juan Navarro, Detective Cesar Arceo, and Police Officer Gabriel Abreu, all of the 115<sup>th</sup> Precinct (**Allegations A: Abuse of Authority – § 87(2)(g)** Sgt. Rajan, PO Navarro, PO Abreu, and an unidentified officer pointed their guns at § 87(2)(b) (**Allegations B – D: Force – § 87(2)(g)** **Allegation E: Force – § 87(2)(g)** Sgt. Rajan kicked § 87(2)(b) vehicle door, allegedly causing a dent (**Allegation F: Discourtesy – § 87(2)(g)** **Allegation G: Abuse of Authority – § 87(2)(g)** and spoke discourteously to him (**Allegation H: Discourtesy – § 87(2)(g)** Additional officers, including Police Officer Kurt Liebe and Police Officer Joseph Delligatti, both of the 115<sup>th</sup> Precinct, arrived. PO O'Leary, PO Liebe, and Sgt. Rajan frisked § 87(2)(b) (**Allegation I – K: Abuse of Authority – § 87(2)(g)**

The officers then stopped § 87(2)(b) in his stationary vehicle (**Allegation L: Abuse of Authority – § 87(2)(g)** and pointed their guns at him (**Allegation M: Force – § 87(2)(g)** PO Liebe and PO Navarro frisked § 87(2)(b) (**Allegation N – O: Abuse of Authority – § 87(2)(g)** and PO Navarro searched him (**Allegation P: Abuse of Authority – § 87(2)(g)** Det. Arceo, PO O'Leary, PO Liebe, PO Abreu, and Sgt. Rajan searched § 87(2)(b) vehicle (**Allegations Q-U: Abuse of Authority – § 87(2)(g)** No arrest or summons resulted from this incident.

Body Worn Camera ("BWC") footage of this incident was received from NYPD Legal. The footage is in IAs #37 - 45 (**Board Review 01 - 10**) and is summarized in IA #100 (**Board Review 11**). There is no other video evidence in this case.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Sergeant JOHN RAJAN stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (B) Force: Sergeant JOHN RAJAN pointed his gun at § 87(2)(b)**

**Allegation (C) Force: Police Officer JUAN NAVARRO pointed his gun at § 87(2)(b)**

**Allegation (D) Force: Police Officer GABRIEL ABREU pointed his gun at § 87(2)(b)**

**Allegation (E) Force: An officer pointed his gun at § 87(2)(b)**

**Allegation (I) Abuse of Authority: Police Officer RYAN OLEARY frisked § 87(2)(b)**

**Allegation (J) Abuse of Authority: Police Officer KURT LIEBE frisked § 87(2)(b)**

**Allegation (K) Abuse of Authority: Sergeant JOHN RAJAN frisked § 87(2)(b)**

§ 87(2)(b) (**Board Review 12**), who described himself as an Asian male, said he exited his parents' home, located at § 87(2)(b) in Queens, and walked to his car, a 2007 silver Toyota Camry LE with license plate # § 87(2)(b) which was parked on the curb two or three houses down from his parent's home. § 87(2)(b) entered his car, immediately pulled out of the parking spot, and drove approximately two car lengths before two marked SUVs with their turret lights activated approached his vehicle from both sides (even though it was a one-way street) and blocked him in. Sgt. Rajan, PO Navarro, and PO Abreu all identified via investigation, and a fourth unidentified officer, approached § 87(2)(b) vehicle while pointing their guns at him, and ordered him to show them his hands and exit his vehicle; he complied. Outside his car, an officer stood behind § 87(2)(b) and patted down his two front jeans pockets and two back jeans pockets over his clothes. The officers then stopped the driver of another vehicle

(analyzed below) before PO Navarro ultimately spoke with § 87(2)(b) and provided him with his business card. § 87(2)(b) left without being issued any summonses or arrested.

In the radio communications recording (**Board Review 13**), at the 01:07 minute mark, dispatch states, “I’ve got a gun run coming in at 82 Street and 23 Avenue.” At 01:45, dispatch says the 911 caller reported that a driver “possibly” pointed a gun at him. At 01:49, dispatch says the alleged perpetrator is driving a grey Toyota Camry with license plate § 87(2)(b) and the caller is following the perpetrator. At 02:44, dispatch describes the perpetrator as a Hispanic male wearing glasses, and says there is a New York Mets helmet in the back of the vehicle. Dispatch repeats the vehicle description and license plate number. At 03:00, dispatch calls the 911 caller directly. The caller answers and reiterates that he is following the alleged perpetrator and again relays their location, which dispatch relays to the officers. At 04:03, the caller says he is in a black Honda Accord. At 5:00, the caller says he and the perpetrator are behind officers and that the officers have stopped the wrong car, which dispatch relays to the officers. At 06:47, the caller provides the license plate number of the patrol car directly in front of him and the perpetrator.

Event documents reveal that dispatch first relayed the perpetrator’s license plate number at 11:18am, two seconds after the first unit was dispatched to the location (**Board Review 14**).

PO O’Leary’s BWC footage (**Board Review 06**) begins with him in the front passenger seat of a moving vehicle. At the 00:55 minute mark of the media player timestamp (visible at the bottom of the screen), PO O’Leary exits the vehicle with his radio in his left hand and his right hand is empty. He orders § 87(2)(b) who is inside his car, to place his hands on the steering wheel. At 01:05, more officers exit two marked patrol vehicles behind § 87(2)(b) car. At 01:09, PO Navarro is visible on the left side of the screen with his gun pointed at § 87(2)(b) vehicle. § 87(2)(b) front license plate is visible. PO O’Leary orders § 87(2)(b) to place his hands on the steering wheel several more times. PO O’Leary’s hands are intermittently visible while giving these orders; he is no longer holding his radio and his hands are both empty. Because of a glare on the windshield, § 87(2)(b) is not clearly visible inside his car. PO Navarro’s BWC footage (**Board Review 05**) captures PO O’Leary’s actions from a different angle. Between the 01:10 and 01:24 minute marks of the media player timestamp (visible at the bottom of the screen), PO O’Leary and PO Navarro order § 87(2)(b) to place his hands on the steering wheel. PO O’Leary’s empty hands are visible on the right side of the screen.

In PO O’Leary’s BWC footage (**Board Review 06**), at 01:22, Sgt. Rajan approaches § 87(2)(b) driver’s door with his gun drawn and pointed at the ground. This aspect of the incident is better captured in Sgt. Rajan’s BWC footage (**Board Review 07**). At the 01:13 minute mark of the media player timestamp (visible at the bottom of the screen), Sgt. Rajan asks, “Is this the car?” § 87(2)(b) rear license plate and rear window are visible. There is no Mets helmet visible in the back of his car. At 01:18, PO Abreu is visible on the far right side of the frame approaching § 87(2)(b) car with his gun drawn and pointed at the ground. At 01:22, PO Abreu is no longer visible as he walks on the opposite side of § 87(2)(b) car. At 01:28, Sgt. Rajan opens the driver’s door, says “Don’t fucking move” (analyzed separately), and points his gun at § 87(2)(b).

PO O’Leary’s and PO Liebe’s BWC footage both capture § 87(2)(b) frisk. In PO O’Leary’s BWC footage (**Board Review 06**), at 01:33, § 87(2)(b) is ordered to exit his vehicle and complies, and at 01:46, PO O’Leary pats down § 87(2)(b) left pants pocket over his clothing and squeezes his jacket pocket. In PO Liebe’s BWC footage (**Board**



**Review 04**), at the 01:15 minute mark of the media player timestamp (visible at the bottom of the screen), as § 87(2)(b) leans against his car, PO Liebe, who is standing next to him, pats down § 87(2)(b) right jacket pocket over his clothing. At 01:20, Sgt. Rajan appears to frisk § 87(2)(b) though his hands are out of frame. Only § 87(2)(b) upper body is visible.

The Stop Report for § 87(2)(b) notes he was stopped based on the aforementioned radio run which provided the license plate, make, model, and color of the vehicle of an individual suspected of menacing with a gun, because his car was the same make, model, and color, and because the alleged perpetrator and § 87(2)(b) were both Hispanic males. § 87(2)(b) was taken out of his car and frisked, and “upon further investigation,” the license plate revealed that his was the incorrect vehicle (**Board Review 34**).

Sgt. Rajan, PO O’Leary, PO Navarro, Det. Arceo, PO Liebe, and PO Abreu were all interviewed (**Board Review 15 – 20**) and collectively said they stopped § 87(2)(b) vehicle because it matched the make, model, and color of the alleged perpetrator’s vehicle, and for no other reason. They had no other reason to believe § 87(2)(b) was armed. None of the officers recalled the perpetrator’s license plate number that was provided to them by dispatch at the time of their CCRB interviews. Sgt. Rajan, PO Navarro, and PO Abreu all acknowledged drawing and pointing their guns at § 87(2)(b) prior to § 87(2)(b) exiting his car. They did so because they had received a radio run for a dispute with a gun and § 87(2)(b) car matched the make, model, and color of the alleged perpetrator’s vehicle. None of the other officers interviewed acknowledged drawing or pointing their guns. Sgt. Rajan and PO Liebe said PO O’Leary also had his gun pointed. Det. Arceo said one officer had their gun pointed, though he could not recall who. PO Abreu said when he arrived at the location, there were six to eight officers there, most of whom had their guns pointed, though he did not recall who.

Consistent with the BWC footage, Sgt. Rajan and PO O’Leary acknowledged frisking § 87(2)(b) stating they did so to check for weapons. PO Liebe did not have an independent recollection of frisking § 87(2)(b). All of the officers interviewed stated that besides § 87(2)(b) vehicle matching the make, model, and color of the alleged perpetrator’s vehicle, none of them had any reason to believe § 87(2)(b) possessed a weapon.

A vehicle description and license plate number that was transmitted over the police radio regarding an individual who may have committed weapons possession crimes is sufficient basis for officers to have reasonable suspicion to stop that vehicle. People v. Argyris, 2012 99 A.D.3d 808 (**Board Review 21**) The decision to display or draw a gun should be based on an articulable belief that the potential for serious physical injury is present. NYPD Patrol Guide, Procedure 221-01 (**Board Review 22**). Where an identified citizen informant has provided officers with information that the occupant of a specific vehicle might possess a weapon, an officer will be justified in conducting a protective frisk of the vehicle occupant, as it is premised on a reasonable fear that the defendant may be armed. People v. Larkins, 116 A.D.2d 194 (1986) (**Board Review 24**).

The officers all said § 87(2)(b) vehicle was stopped because it matched the make, model, and color of the perpetrator’s vehicle. Further, § 87(2)(b) is an Asian man who could reasonably be misidentified as Hispanic. However, the BWC footage confirms that § 87(2)(b) license plate number § 87(2)(b) which was displayed in both the front and back of his vehicle, was not the same or similar to the one that was communicated by dispatch approximately 30 seconds after the job came over the radio § 87(2)(b) nor did he have a Mets helmet visible in the back of his car. Nothing aside from his vehicle partially matching the description put over the radio led the officers to stop § 87(2)(b) vehicle or believe he

possessed a gun. § 87(2)(g)

The different angles of Sgt. Rajan's, PO O'Leary's, and PO Navarro's BWC footage collectively capture the entire scene as the officers first approached § 87(2)(b) vehicle from different directions. Though § 87(2)(b) alleged four officers drew and pointed their guns at him, the footage revealed that Sgt. Rajan, PO Navarro, and PO Abreu were the only ones who did so. Though Sgt. Rajan and PO Liebe said PO O'Leary also had his gun pointed, PO O'Leary denied this, and the BWC footage corroborates his version of events. § 87(2)(g)

**Allegation (F) Discourtesy: Sergeant JOHN RAJAN acted discourteously toward § 87(2)(b).**

**Allegation (G) Abuse of Authority: Sergeant JOHN RAJAN damaged § 87(2)(b) property.**

**Allegation (H) Discourtesy: Sergeant JOHN RAJAN spoke discourteously to § 87(2)(b).**

In PO O'Leary's BWC footage (**Board Review 06**), at the 01:22 minute mark of the media player timestamp (visible at the bottom of the screen), as the officers first approach § 87(2)(b) vehicle, Sgt. Rajan approaches the driver's door. The car engine turns on and Sgt. Rajan says, "Hands on the steering wheel" and kicks the driver's door. At 01:27, Sgt. Rajan opens the driver's door. § 87(2)(b) has his hands on the steering wheel. Sgt. Rajan says, "Don't fucking move." PO O'Leary orders § 87(2)(b) to exit the car. Sgt. Rajan holds § 87(2)(b) arm as he exits. If one pauses the footage at the 02:22 minute mark, the front driver's side door of § 87(2)(b) car is fully visible and not damaged (a still photo from the BWC footage is in IA #205 (**Board Review 32**)).

§ 87(2)(b) said Sgt. Rajan kicked the front driver's side door upon approaching his car, which created a dent. Both § 87(2)(b) and § 87(2)(b) agreed to provide a photo of the damaged door to the investigation, but they were ultimately uncooperative with doing so (see IAs for contact attempts). § 87(2)(b) made no mention of Sgt. Rajan using profanity in his CCRB interview.

Sgt. Rajan acknowledged using profanity. He said he did not mean to, but that he made the statement captured in the BWC footage "in the heat of the moment." Sgt. Rajan acknowledged kicking § 87(2)(b) vehicle. He did so to get § 87(2)(b) attention, because § 87(2)(b) was not complying with the officers' orders to show his hands and because he heard § 87(2)(b) start his vehicle's engine. Sgt. Rajan did not recall any damage resulting from the kick. PO Liebe was the only other officer who recalled Sgt. Rajan kicking § 87(2)(b) car, and he did not recall the door sustaining any damage as a result.

The mission of the New York City Police Department includes valuing human life, respecting the dignity of each individual, and rendering services with courtesy and civility while enforcing the law, preserving peace, protecting people, and maintaining order. NYPD Patrol Guide, Procedure 200-02 (**Board Review 14**). Officers have a responsibility to act with decorum in their interactions

with civilians, though there are certain situations where profane remarks made during a stressful or chaotic situation do not constitute misconduct. DAO-DCT Disciplinary Case No. 2018-18951 (Board Review 23).

The officers were canvassing for someone who had just gotten into a dispute with another driver and reportedly possibly possessed a gun. At this point of the incident, the officers believed § 87(2)(b) to be the alleged perpetrator they were canvassing for. Upon being stopped, § 87(2)(b) was initially noncompliant with the officers' orders to show them his hands, and instead turned on his car's engine. § 87(2)(g)

Further, the BWC footage captures § 87(2)(b) front driver's door after Sgt. Rajan kicked it and proves that the door sustained no damage. § 87(2)(g)

**Allegation (L) Abuse of Authority: Officers stopped § 87(2)(b)**

**Allegation (M) Force: Officers pointed their guns at § 87(2)(b)**

**Allegation (N) Abuse of Authority: Police Officer JUAN NAVARRO frisked § 87(2)(b)**

**Allegation (O) Abuse of Authority: Police Officer KURT LIEBE frisked § 87(2)(b)**

**Allegation (P) Abuse of Authority: Police Officer JUAN NAVARRO searched § 87(2)(b)**

**Allegation (Q) Abuse of Authority: Detective CESAR ARCEO searched the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (R) Abuse of Authority: Police Officer RYAN OLEARY searched the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (S) Abuse of Authority: Police Officer KURT LIEBE searched the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (T) Abuse of Authority: Police Officer GABRIEL ABREU searched the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (U) Abuse of Authority: Sergeant JOHN RAJAN searched the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(b) said he saw officers stop another Toyota Camry behind and approximately four house-lengths away from where he had been stopped. He thought that two Hispanic male civilians were inside that car, but he could not be sure. [The investigation determined that one male was inside the car, § 87(2)(b) Officers, § 87(2)(b) could not recall which, "searched" the men "quickly with their hands." Because he was standing far away, § 87(2)(b) was unable to describe the officers' actions in any further detail. He could not hear any conversation between the men, did not see any officers search the Toyota Camry, and did not see the officers stop any other vehicles or interact with any other civilians.

§ 87(2)(b) declined to participate in this investigation because he did not want to get involved (Board Review 25).

In PO O'Leary's BWC footage (Board Review 06), at the 03:29 minute mark of the media player timestamp (visible at the bottom of the screen), Det. Arceo exits a marked patrol vehicle and says dispatch "says that the car is directly in front of [police vehicle] #3851." The officers turn and walk up the block. At 03:49, an officer says, "That's the plate." Officers say, "Put your hands up" and "Turn off the car," and some officers unholster their guns and point them at a stationary grey Toyota Camry. At 04:10, the driver of that vehicle, § 87(2)(b) exits the car. PO Navarro pats



down § 87(2)(b) arms, torso, and legs. PO Navarro's BWC footage (**Board Review 05**) better captures his actions. At the 04:07 minute mark of the media player timestamp (visible at the bottom of the screen), PO Navarro pats down § 87(2)(b) shoulders and torso, then places his hands in front of § 87(2)(b) body near his waist so that his hands are no longer visible. PO Navarro moves his hands down the sides of § 87(2)(b) waist and at 04:12, PO Navarro removes an unidentified square object from § 87(2)(b) right pocket (a still photo from the BWC footage is in IA #196 (**Board Review 30**)). PO Liebe's BWC footage (**Board Review 04**) captures the same point in time and shows that at the 03:34 minute mark of the media player timestamp (visible at the bottom of the screen), PO Liebe pats down § 87(2)(b) right jacket pocket.

In Det. Arceo's BWC footage (**Board Review 02**), at the 04:20 minute mark of the media player timestamp (visible at the bottom of the screen), Det. Arceo and PO O'Leary each enter § 87(2)(b) vehicle through one of the two front doors, and Det. Arceo removes the keys from the ignition. At 04:38, Det. Arceo looks under the front passenger seat with a flashlight. In PO O'Leary's BWC footage (**Board Review 06**), at 04:22, PO O'Leary asks § 87(2)(b) if he got in a fight with anyone and § 87(2)(b) says the man behind him who had been following him and repeatedly cut his car off. At 04:35, § 87(2)(b) says, "There's nothing in the car." PO O'Leary moves some papers in the compartment inside the driver's door and says, "So you don't mind us looking in the car?" § 87(2)(b) says, "Sure." PO O'Leary says, "From head to toe?" § 87(2)(b) says, "You can look wherever. You can check." In PO Liebe's BWC footage (**Board Review 04**), at 04:53, PO Liebe searches the trunk of § 87(2)(b) car and a backpack inside the trunk. At 05:30, PO Liebe says, "There's nothing" and closes the trunk. Det. Arceo is visible bending over inside the back passenger side door of the car.

Sgt. Rajan's BWC footage (**Board Review 07**), beginning at the 03:30 minute mark of the media player timestamp (visible at the bottom of the screen), reveals that he initially remained with § 87(2)(b) as the other officers approached § 87(2)(b) car to order him to stay where he is and explain the reason he was stopped. At 04:33, Sgt. Rajan approaches § 87(2)(b) car as PO Navarro is frisking § 87(2)(b). Sgt. Rajan asks PO Navarro if § 87(2)(b) has been identified by the 911 caller yet. PO Navarro says he has. Sgt. Rajan approaches the 911 caller, who is standing outside a vehicle parked behind § 87(2)(b) vehicle speaking with PO Delligatti. The 911 caller explains that § 87(2)(b) had pointed his middle and index finger in front of him, seemingly mimicking a gun, then removed something from his glove compartment and waved it in front of his torso. PO Delligatti asks the 911 caller if he saw a gun and the 911 caller says he was looking in his rearview mirror. PO Delligatti asks if the 911 caller is positive he saw a gun or that he maybe saw a gun and the 911 caller says, "maybe." Sgt. Rajan walks away and approaches PO Abreu, who is bent over inside § 87(2)(b) car. At 05:16, Sgt. Rajan asks if PO Abreu is checking underneath the seat and points and says to look under the seat. [Given this instruction and Sgt. Rajan's supervisory role, this allegation has also been pled against him.] At 05:34, Sgt. Rajan walks past PO Liebe as he opens the car trunk.

Sgt. Rajan, PO O'Leary, PO Navarro, Det. Arceo, PO Liebe, and PO Abreu all provided statements which were generally consistent with the BWC footage, though neither PO O'Leary nor PO Liebe independently recalled frisking § 87(2)(b). PO Navarro and PO Abreu acknowledged pointing their guns at § 87(2)(b) upon approaching him, PO Navarro acknowledged frisking him, Sgt. Rajan acknowledged instructing officers to search § 87(2)(b) vehicle, and PO O'Leary, PO Liebe, Det. Arceo, and PO Abreu acknowledged searching the vehicle. They took those actions as safety precautions and investigatory steps as the job they were responding to had been for a dispute with a gun. No gun was recovered from § 87(2)(b) or his vehicle. PO Navarro said after the vehicle search concluded, he provided his RTKA business card to § 87(2)(b) and explained why the officers stopped him.



PO Navarro acknowledged placing his hand inside § 87(2)(b) pocket after frisking him, and he said he did so because there may have been a gun inside the pocket. He did not recall what he felt during the frisk that prompted him to reach inside § 87(2)(b) pocket, nor could he identify what items he removed. PO Navarro did not independently recall why he removed any items from § 87(2)(b) pockets, but based on his review of his BWC footage, he thought he may have removed the square object seen in the footage because it could have been a magazine loaded with bullets, which he would have removed for his safety.

The Stop Report for § 87(2)(b) notes he was stopped because his vehicle matched the make, model, color, and license plate provided in the aforementioned radio run, he matches the physical description of the alleged perpetrator who may have been menacing with a gun, and the 911 caller, who followed § 87(2)(b) to the location of the stop, pointed him out as the alleged perpetrator. The report states that § 87(2)(b) was frisked due to the nature of the call, and that the officer who frisked him felt a sharp metal object in § 87(2)(b) right pocket which he believed could have been a knife or cutting instrument, so that pocket was searched and the item turned out to be a metal wallet (**Board Review 33**).

A description of a vehicle and its license plate number transmitted over the police radio, and the observation of the car in close geographical and temporal proximity to the scene where the driver was reportedly seen having committed weapons possession crimes, amounts to sufficient reasonable suspicion for officers to stop and search that vehicle. People v Argyris, 2012 99 A.D.3d 808 (**Board Review 21**). The decision to display or draw a gun should be based on an articulable belief that the potential for serious physical injury is present. NYPD Patrol Guide, Procedure 221-01 (**Board Review 22**). An officer may frisk a detainee if the officer reasonably suspects the detainee to be armed People v. DeBour, 40 N.Y.2d 210 (**Board Review 24**). Where the frisk reveals an object that the officer reasonably suspects may be a weapon, the officer may search only those interior portions of the stopped person's clothing to remove the weapon. NYPD Patrol Guide, Section 212-11 (**Board Review 35**). Officers are permitted to search a vehicle in order to locate a gun if they have probable cause, such as a 911 caller who is reliable and has a sufficient basis of knowledge for the information provided to the police. People v Warren, 124 A.D.3d 699 (**Board Review 31**). Consent to search must be a free and unconstrained choice. People v. Rodriguez, 39 N.Y.2d 122 (**Board Review 36**).

Given that the 911 caller reported that the driver of a vehicle matching § 87(2)(b) vehicle's make, model, color, and license plate number had possibly pointed a gun at him, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Despite PO Navarro's lack of recall at the time of his CCRB interview regarding what led him to search § 87(2)(b) pocket, the BWC footage captures him removing a square shaped object. The Stop Report documents that during the frisk, PO Navarro felt a sharp metal object which he believed could have been a knife or cutting instrument, but which turned out to be a metal wallet.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

§ 87(2)(g) The 911 caller said § 87(2)(b) “possibly” pointed a gun at him but provided no additional information that made clear his basis of knowledge in the 911 call. After the officers had already commenced the vehicle search, Sgt. Rajan approached the 911 caller, who reported that § 87(2)(b) had used his fingers to mimic a gun and then removed an object from his glove compartment and waved it in front of him. The 911 caller never described the object. When next asked by PO Delligatti whether the 911 caller was positive he saw a gun or maybe saw a gun, the 911 caller said he “maybe” saw a gun. Despite the 911 caller’s own continued uncertainty as to the existence of a gun, Sgt. Rajan walked away, approached PO Abreu, and instructed him to further search § 87(2)(b) vehicle. § 87(2)(g)

§ 87(2)(b) Additionally, though § 87(2)(b) told the officers they could check “wherever” in his vehicle, this statement was made after he had already been removed from his vehicle and was in the process of being frisked. § 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first complaint in which § 87(2)(b) and § 87(2)(b) have been party.
- Sgt. Rajan has been a member of service for 31 years and has been a subject in 26 CCRB complaints comprised of 80 allegations, nine of which were substantiated, including four frisk allegations, two vehicle search allegations, and one vehicle stop allegation.
  - In CCRB case #200710212, one frisk allegation and one vehicle search allegation were substantiated. The Board recommended Command Discipline B. The NYPD imposed Command Discipline B.
  - In CCRB case # 200803734, one frisk allegation, one search of person allegation, and one vehicle stop allegation were substantiated. The Board recommended charges. The NYPD docked Sgt. Rajan eight vacation days as a result.
  - In CCRB case # 200803831, one frisk allegation was substantiated. The Board recommended instructions. The NYPD docked Sgt. Rajan eight vacation days as a result.
  - In CCRB case # 201505026, one frisk allegation, one threat of force, and one vehicle search allegation were substantiated. The Board recommended charges. The NYPD docked Sgt. Rajan 10 vacation days as a result.
- PO O’Leary has been a member of service for five years and has been a subject in two CCRB complaints comprised of five allegations, none of which were substantiated. § 87(2)(g)
- PO Navarro has been a member of service for four years and has been a subject in two CCRB complaints comprised of five allegations, none of which were substantiated. § 87(2)(g)
- PO Abreu has been a member of service for three years and this is the first complaint in which he has been named a subject. § 87(2)(g)
- PO Liebe has been a member of service for six years and has been a subject in three CCRB complaints comprised of five allegations, none of which were substantiated. § 87(2)(g)
- Det. Arceo has been a member of service for 17 years and has been a subject in four CCRB complaints comprised of 11 allegations, none of which were substantiated. § 87(2)(g)

### **Mediation, Civil, and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.

- As of February 15, 2021, neither § 87(2)(b) nor § 87(2)(b) has filed a Notice of Claim with the NYC Comptroller's Office regarding this incident (**Board Review 26, 27**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad: 13

Investigator: Inv. Emma Stydahr Emma Stydahr 02/24/2022  
Signature Print Title & Name Date

Squad Leader: IM Laura Kastner Laura Kastner 02/25/2022  
Signature Print Title & Name Date